

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**



74-1117

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Page 5

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----x  
: UNITED STATES OF AMERICA, :  
: Appellee, :  
: -against- : Docket No. 74-1117  
: ROBIN YANISHEFSKY :  
: Appellant. :  
: -----x

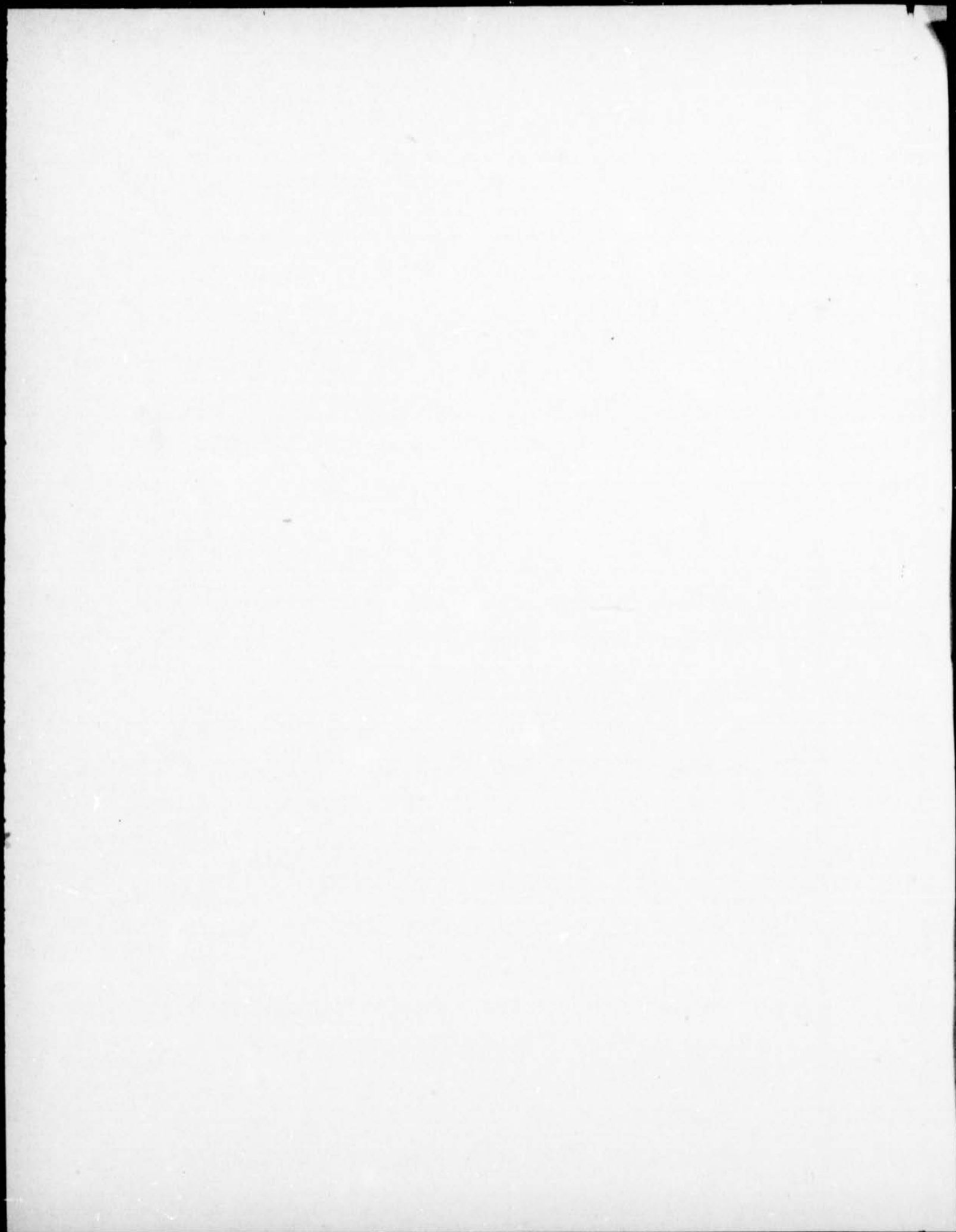
APPENDIX TO APPELLANT'S BRIEF

ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK



WILLIAM J. GALLAGHER, ESQ.,  
THE LEGAL AID SOCIETY,  
Attorney for Appellant  
FEDERAL DEFENDER SERVICES UNIT  
606 United States Court House  
Foley Square  
New York, New York 10007  
(212) 732-2971

MICHAEL YOUNG  
Of Counsel



**PAGINATION AS IN ORIGINAL COPY**

[illegible]

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	D
Fine,					
Clerk,					
Marshal, <i>SL3</i> ✓					
Attorney,					
<del>XXXXXXXXXX</del> 21 & 18					
<del>XXXXXXXXXX</del> 812,841(a)(1),b)					
(1)(A).1791 Distr. & possess.					
w/intent to distr.CocaineII.(Ct1)					
Attempted to introduce contraband					
into penal institution.(Ct2)			(Two Counts)		

DATE	PROCEEDINGS
11-23-73	Filed indictment. Superseding 73 Cr 1029)
12-3-73	Court directs a plea of Not Guilty be entered. Bail fixed on Indictment 73 Cr 1029 to cover this Indictment. (Bail fixed in the amount of \$1,000. P.R.B. signed by Deft and Deft's Mother & Father. Condition of Bail being that Deft continue to live with her parents and report once a week by phone to the U.S. Atty Office.) Trial began. Deft waives Trial by Jury in writing.
12-11-73	Trial cont'd and concluded. Court finds the Deft GUILTY. Sentence Jan 18, 1974 @ 2:30 PM. Pre-sent. Invest. ordered. Bail cont'd. ---IVATT, I.
12-11-73	Filed Deft's Waiver of Trial by Jury, approved by Judge Whitt

DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFT
12-11-73	Filed order, Under Fed. R. Crim. P. 29(c), the time within which Deft may move for judgment of acquittal is extended to the date of sentence. Under Fed. R. Crim. P. 33, the time within which Deft may move for a new trial is extended to the date of sentence. SO ORDERED—WYATT, J.		
12-12-73	Filed Deft's Notice of Motion for Judgment of Acquittal or, In the Alternative for a New Trial and Attorney's Affirmation.		
12-28-73	ROBIN YANISHEFSKY-Filed CJA 21 Appointing Court Reporters dtd. 12-12-73-Wyatt, J.		
1-18-74	Filed Judgment and Order of Probation - It is Adjudged that the imposition of sentence on each of Cts. 1 and 2, are suspended, and the Deft. is placed on probation for a period of TWO(2) YEARS subject to the standing probation order of this court.—WYATT, J.		
1-18-74	Filed letter/dtd 1-10-74 by the Deft's Father requesting that the defense attorney Mr. Levy be replaced.		
1-18-74	Filed Deft's letter dated 1-15-74 requesting that the court either re-assign Michelle Herman as his defense Atty or assign another lawyer to argue my motion for a new trial.		
1-18-74	Filed letter dated 1-15-74 written by Defense Atty Edward N. Leavy.		
1-18-73	Filed Memorandum in support of Deft's Motion for Judgment of Acquittal and other relief.		
1-18-74	Filed Gov't Memorandum in Opposition to Deft's Motion for Judgment of Acquittal and other relief.		
1-18-74	Filed Affidavit in Opposition to Deft's Motion for Acquittal and for other relief.		
1-21-74	Filed Memo Endorsement on Defts motion filed 12-12-73 for Judgment of Acquittal— The within motion is denied—SO ORDERED— WYATT, J. (Card mailed 1-15-74)		
1-21-74	Filed Deft's Sentence Memorandum to consider Deft's sentence sympathetically.		









SAS:emw

UNITED STATES OF AMERICA  
SOUTHERN DISTRICT OF NEW YORK

73 CRIM. 1071

-----X  
UNITED STATES OF AMERICA

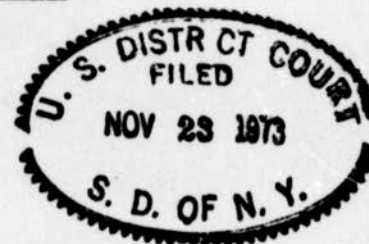
-v-

ROBIN YANISHEFSKY,

Defendant.

INDICTMENT

S 73 Cr.



-----X  
The Grand Jury charges:

On or about the 31st day of October 1973 in the Southern District of New York, ROBIN YANISHEFSKY, the defendant, unlawfully, wilfully and knowingly did possess with intent to distribute, Schedule I and II narcotic drug controlled substances, to wit, 5 glassine envelopes of heroin and 4 tinfoil packets of cocaine.

(Title 21, United States Code, Sections 812,  
841(a)(1) and 841(b)(1)(A).)

MICROFILM

NOV 26 1973

COUNT TWO

The Grand Jury further charges:

On or about the 31st day of October 1973 in the Southern District of New York, ROBIN YANISHEFSKY, the defendant, unlawfully, intentionally and knowingly, contrary to a regulation promulgated by the Attorney General, introduced and attempted to introduce into and upon the grounds of a Federal penal institution, to wit, the Federal Detention headquarters, 427 West Street, New York, New York, contraband articles, to wit, 5 glassine envelopes containing heroin and 4 tinfoil packets containing cocaine.

(Title 18, United States Code, Section 1791).

Joseph Sacchetti  
FOREMAN

Paul J. Curran  
PAUL J. CURRAN  
United States Attorney

## United States District Court

SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

vs.

ROBIN YANISHEFSKY,

Defendant.

## INDICTMENT

(18 U.S.C. §1791;

21 U.S.C. §812, 841(a)(1) and  
841(b)(1)(A).)

PAUL J. CURRAN

Unit 1 States Attorney.

A TRUE BILL

Foreman.



DEC 9 1973

Court directs a plea of not guilty to be entered.  
 Bail fixed on Indictment 730. 1029 to cover this indictment.  
 (Bail fixed in amt. of \$5,000. P.R.B. signed by deft. and deft's  
 mother & father. Condition of bail being that deft. continue to live  
 with her parents and report once a week by phone to the U.S. attys office.)  
 Trial begun, deft. waives trial by jury in writing. WM

DEC 4 1973

Trial cont'd. & concluded. Court finds the deft. Guilty.  
 2. Sentenced Jan. 18, 1974 2:30 P.M. Pre-sent. Invol. ordered!  
 Bail cont'd.

JAN 18 1974

Reporter - Edward Odette  
 Edward ~~Levy~~ Levy, Esq. - Court. Steven Schotten  
 Deft. (atty present) sentenced.

It is adjudged that the imposition of sentence on each of counts  
 1 and 2, are suspended, and defendant is placed on probation for  
 a period of TWO (2) YEARS.

W. Gatt, Jr.



January 15, 1974



73 Cr. 1071  
J.B.W.

To The Honorable Judge I. B. Wyatt:

In response to your letter dated December 10, 1973 I would like to comply with your request to specify in what respect I feel I was not "justly" represented. Thus being, I feel Mr. Leavy should have but did not against my objections introduce the only person whom I was constantly with on the day in question, my friend Miss Lucy Wilson, 39 West 27 Street, New York, New York. She would have sworn that I was innocent.

Furthermore, due to the fact that the visiting list was not made available by the prosecution until the trial had commenced, Mr. Leavy, upon receipt of those documents should have requested a postponement in order to have ample time to interview those who might have had some bearing on this case and been witnesses to my innocence.

In my opinion I feel that Mr. Leavy did not present this case to his utmost as he was not completely convinced of my innocence in this matter and might have been drawing his conclusions from my past records. In his summation he practically stated that I was guilty.

Therefore, I request that the court either re-assign Michelle Herman as my defense attorney or assign another lawyer to argue my motion for a new trial.

Respectfully yours,

*Robin Yanishefsky*  
ROBIN YANISHEFSKY

*Q* 10

To Judge W. t

930.1071 T B.W.  
Jan. 10-74

Dear sir:-

I am the father of Robin Yanishefsky. She was found guilty in your courtroom and coming up for sentence soon.

I am aware of her record and I know her problems, and of course do not agree or approve of what she has been doing. We have tried for a long time to change things. But all that does not make her a criminal. And in this instance we are convinced of her innocence.

We sat through the proceedings the first day. And on the basis of the testimony-by the prosecutions only witness; no witnessess for the defense called; the inept, bumbling defense put up by Mr Levy, the defense attorney; his apparent belief in his clients guilt; praise for the truthfulness of the prosecutions witness; it left no choice, but for a verdict of guilty. One does not need a defense attorney to cast the first stone.

Perhaps from where your Honor sits it was not obvious that there was constant coaching of the witness by the prosecuting attorney where the witness would look at him after every question and receive an approving nod to answer or not. But Mr Levy heard nothing, saw nothing and said as much.

There is much more at stake here than this case itself. There is the welfare of a 4 year old child that we take care of. But we are old, and our hope is for the mother. Jail will be the worst possible thing as a solution. There is a deep going rot and immorality and lawlessness in this generation. My daughters case history is in the thousands, but that is no consolation.

May I respectfully ask that Mr Levy be replaced with some one competent, for prejudicing his clients case?. Since she was found guilty, may I ask you in the name of Justice what can be done to undo the damage? The people acquainted with this case from the beginning (and I cannot quote anyone of course) are of the opinion, that any kind of decent defense would find this thrown out of court. It is so easy to condemn, to lecture and exact payment no matter how much it hurts. But how hard it is to help!

But that is why I'm writing this. For I know of no one your honor who could be more help, and just, and with respect for the law at the same time.

Thank you for your consideration

*Norm Tomasz*  
Respectfully

U. S. DISTRICT  
FILED  
JAN 18 1974  
WM



*admitted*

Certificate of Service

May 17, 1974

I certify that a copy of this brief and appendix has been ~~mailed to~~ the United States Attorney for the Southern District of New York.

James A. [unclear]

